

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

THE NEW YORK TIMES COMPANY,

Plaintiff,

-v-

UNITED STATES DEPARTMENT OF  
HEALTH AND HUMAN SERVICES,

Defendant.

20 Civ. 3063 (GWG)

**STIPULATION OF  
SETTLEMENT AND  
DISMISSAL**

WHEREAS, plaintiff The New York Times Company (“Plaintiff”) filed this suit in the United States District Court for the Southern District of New York pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, seeking the release of certain records by defendant United States Department of Health and Human Services (“HHS”); and

WHEREAS, following summary judgment practice, an appeal to the United States Court of Appeals for the Second Circuit, and subsequent negotiations, on November 29, 2021, HHS released certain records to Plaintiff subject to partial redaction pursuant to FOIA Exemption 6;

IT IS HEREBY STIPULATED, AGREED, and ORDERED as follows:

1. The documents produced by HHS in this action fully resolve any and all claims by Plaintiff against HHS or the United States of America (the “United States”), or any department, agency, officer, or employee of HHS and/or the United States, arising out of the FOIA request at issue in this action.

2. After the Court has approved and docketed this Stipulation and Order, Counsel for Plaintiff will provide the necessary information for HHS to effectuate payment. Within a

reasonable period of time after Plaintiff's provision of necessary information to effectuate payment, HHS shall pay to Plaintiff via electronic funds transfer the sum of FIFTY-TWO THOUSAND DOLLARS (\$52,000) in attorneys' fees and litigation costs, pursuant to 5 U.S.C. § 552(a)(4)(E), which sum Plaintiff agrees to accept in complete satisfaction of any and all claims by Plaintiff for attorneys' fees, expenses, costs, interest, and any other sums related to this litigation. HHS will undertake its best efforts to pay the amount agreed to within sixty (60) days after the Court has approved and docket this Stipulation and Order and Plaintiff has provided the necessary information to effectuate payment.

3. This action is hereby dismissed with prejudice, and without costs or fees other than as provided in paragraph 2 of this Stipulation and Order, provided that the Court shall retain jurisdiction for the purpose of enforcing this Stipulation and Order.

4. This Stipulation and Order shall not constitute an admission of liability or fault on the part of HHS or the United States or their agents, servants, or employees, and is entered into by both parties for the sole purpose of compromising disputed claims and avoiding the expenses and risks of further litigation.

5. The parties agree that this Stipulation and Order is non-precedential with respect to any other proceeding against HHS, the United States, or any agency or instrumentality of the United States.

6. The parties understand and agree that this Stipulation and Order contains the entire agreement between them, and that no statements, representations, promises, agreements, or negotiations, oral or otherwise, between the parties or their counsel that are not included herein shall be of any force or effect.

Dated: February 4, 2022  
New York, New York

DAMIAN WILLIAMS  
United States Attorney

By: /s/ Zachary Bannon  
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*Counsel for Defendant*

Dated: February 3, 2022  
New York, New York

By:   
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*Counsel for Plaintiff*

SO ORDERED:

HONORABLE GABRIEL W. GORENSTEIN  
UNITED STATES MAGISTRATE JUDGE